U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

File: [redacted] Office: VERMONT SERVICE CENTER Date: JUN 0 2006

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Immigrant Petition for Other Worker Pursuant to § 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(3)

Public Copy

IN BEHALF OF PETITIONER:

[redacted]

Identity
Prevent clear unwarranted
invasion of personal privacy

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was initially approved by the Director, Vermont Service Center. On the basis of new information received and on further review of the record, the director determined that the petitioner was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the preference visa petition, and his reasons therefore, and ultimately revoked the approval of the petition on August 23, 1999. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be summarily dismissed.

The petitioner is private household. It seeks to employ the beneficiary permanently in the United States as a housekeeper. As required by statute, the petition was accompanied by an individual labor certification from the Department of Labor. The director determined that the petitioner had not established that the beneficiary was employed with the petitioner.

On the Form I-290B Notice of Appeal, counsel for the petitioner indicated that a brief would be forthcoming within thirty days. Careful review of the record reveals no subsequent submission; all other evidence in the record predates the issuance of the notice of decision.

The statement on the appeal form reads simply "Petitioner is currently a resident of the State of California. Notwithstanding the change of residency, the Immigration and Naturalization Service erred in seeking revocation of the instant visa petition by not adjudicating this case at the time of the beneficiary's interview at the Baltimore INS District Office and by not considering the evidence as submitted on September 23, 1998, documenting the beneficiary's employment relationship with the Petitioner in Potomac, Maryland during all periods at issue. Moreover, the District Adjudication Officer, Baltimore INS, applied an erroneous standard, that of "clear and convincing," when the proper standard of proof in proceedings of the instant classification is "preponderance of the evidence." The instant visa proceeding should be approved on a nunc pro tunc basis relating back to the adjustment of status interview with the beneficiary, [redacted]." These are general statements which are not supported by evidence in the record. The bare assertion that the director erred in rendering the decision is not sufficient basis for a substantive appeal.

8 C.F.R. 103.3(a)(1)(v) states, in pertinent part:

> An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.